

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF COMMUNITY AFFAIRS
HOME Investment Partnerships Program

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**HOME****MANAGEMENT MEMORANDUM**

HOME Investment Partnerships Program

Memorandum Number: 02-02

To: All interested parties

From: Wayne Walker, Section Chief
HOME Investment Partnership Program

Re: SB 975

The Department of Housing and Community Development has received the enclosed letter from the State Department of Industrial Relations (DIR) regarding SB 975 and state prevailing wages. As you will see, the letter addresses two topics: (a) pre-January 1, 2002 HCD contracts and the applicability of SB 975 to construction under those contracts, and (b) projects with LIHTC's in the deal.

We are disseminating this letter to our Department Customers in an effort to assure you are aware of all relevant written guidance from DIR relating to HCE-assisted projects. We hope you find this information useful.

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR

455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050

July 8, 2002

Ms. Julie Bornstein, Director
Department of Housing and Community Development
1800 Third Street, Suite 450
P.O. Box 952054
Sacramento CA 94252-2054

JUL 9 2002

Ms. Jeanne Peterson, Director
California Tax Credit Allocation Committee
915 Capitol Mall, Room 485
Sacramento, CA 95814

Re: **IMPLEMENTATION OF SB 975**

Dear Ms. Bornstein and Ms. Peterson:

I am writing in response to your recent inquiries in which you asked questions related to the implementation of Senate Bill 975. Below, I have restated your questions and provided responses that I hope will assist you.

Question 1: The Department of Housing and Community Development ("DHCD") has asked how SB 975 will impact loan funding commitments made by DHCD to loan recipients where a loan commitment is made prior to January 1st 2002?

Answer: The Department of Industrial Relations (DIR) will enforce the new provisions of SB 975 pertaining to *below market rate interest loans* as public funds on any affordable housing project where such a loan funding commitment by DHCD has been made in the form of an executed "Funding Contract" (or standard agreement) *on or after* January 1, 2002. This includes grant funds from the Community Development Block Grant and HOME programs administered by DHCD with commitments made to local public entities before January 1, 2002. These funds are awarded to local public entities that, in turn, make below market rate interest rehabilitation loans to qualified homeowners. The homeowners, as the ultimate recipients of the loan funds, must repay the loans to the local agency. This decision will not affect the obligations of loan recipients receiving funds from the Downtown Rebound Program or

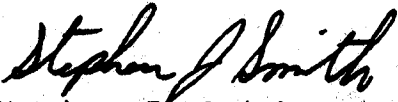
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the Multiple Family Housing Program that must pay prevailing wages pursuant to the requirements of Health and Safety Code sections 50675.4(c)(2) and 50989.2.(c)(1)(E) (Chapter 957, Statutes of 2000).

Question 2: The DHCD and the California Tax Credit Allocation Committee (CTCAC) have asked me to confirm that the exemption from prevailing wage obligations in Labor Code section 1720 (d)(3) will be interpreted to include tax credits combined with other funds without triggering the requirement to pay prevailing wages?

Answer: Under the terms of Labor Code section 1720(d)(3), those specifically enumerated project funding sources are exempt from the obligation to pay prevailing wages where they receive tax credits as well as other funding not otherwise subject to the requirement to pay prevailing wages. Section (d)(3) states: "[n]otwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter." This prefatory language may be construed to include an exemption from prevailing wage obligations for those projects using a combination of tax credits and other funding sources under section (d)(3).

Sincerely,



Stephen J. Smith, Director
Department of Industrial Relations

cc: Chuck Cake, Chief Deputy Director
Vanessa Holton, Asst. Chief Counsel
Gary J. O'Mara, Counsel for DIR